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TAGS: [KCRM](#) [PREL](#) [SNAR](#) [ASEC](#) [PINR](#) [GT](#)  
SUBJECT: CICIG'S CHALLENGES, ACCOMPLISHMENTS, AND MANDATE  
EXTENSION

REF: A. GUATEMALA 1286  
[1](#)B. GUATEMALA 1187  
[1](#)C. GUATEMALA 387  
[1](#)D. GUATEMALA 1171  
[1](#)E. GUATEMALA 1056

Classified By: Ambassador Stephen S. McFarland for reasons  
1.4 (b&d).

#### Summary

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[1](#)1. (C) UN and CICIG officials acknowledge that CICIG needs to show more results before consideration is given to extending its mandate. CICIG is confident that it can successfully prosecute some important cases before its mandate ends in September 2009, while others it is investigating would require multi-year efforts. Should donors and the GOG ultimately decide to seek a mandate extension, conventional wisdom is that it would have to be approved by the Guatemalan Congress, a formidable challenge. A draft resolution on CICIG soon to be presented to the UN General Assembly does not address the question of mandate extension. End Summary.

#### UN Official Discusses Mandate Extension

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[1](#)2. (C) Martha Doggett, Deputy Director for the Americas and Europe of the UN's Political Department, met with the Ambassador and Pol/Econ Couns Oct. 23 to discuss issues related to the status of the UN-led International Commission Against Impunity in Guatemala (CICIG). CICIG's two-year mandate began in September 2007. With eleven months remaining, Doggett and CICIG indicated an interest in extending the mandate. If there is to be an extension, Doggett said, Guatemalan PermRep to the UN Gert Rosenthal would likely need to lead the effort to secure it. She said Rosenthal had recently told her as well as senior CICIG leaders that, per MFA lawyers, the Guatemalan Congress would need to approve any extension. Her reading of the agreement between the UN and the GOG did not indicate that to be the case, but she said Rosenthal had been firm in asserting it was so. It might be useful to get an advisory opinion from the Guatemalan Supreme Court, Doggett said. The Ambassador responded that powerful persons being investigated by CICIG might influence the Court and force the GOG to seek congressional approval.

#### First, Show Results

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[1](#)3. (C) The Ambassador said it would be important for CICIG to produce successful prosecutions of organized criminal groups within the state prior to any serious discussions about an extension. Doggett said she appreciated the need

for more results. The Ambassador also noted that CICIG has 180 days to decide whether it wants to bring a case against former Guatemalan President Alfonso Portillo. Mexico recently extradited Portillo to face corruption charges, but a judge immediately freed Portillo on bail under lenient conditions (ref a). The Ambassador also noted that he and Commissioner Castresana are overseeing an exchange of information between the Embassy and CICIG investigators and prosecutors. While the Embassy cannot share certain kinds of sensitive information, USG law enforcement officers and other Embassy officials are collaborating with CICIG as closely as possible.

#### Upcoming GA Resolution on CICIG

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14. (C) Doggett said that she had been working with PermRep Rosenthal on the text of a resolution, to be presented to the UN General Assembly in November, that would report to the Secretary General that CICIG had been established and was working. The draft resolution did not address the question working of a possible extension of CICIG's mandate. Despite CICIG Commissioner Carlos Castresana's goal of making CICIG an official UN body (in order to facilitate recruiting and resolution of status questions such as immunity), the resolution would not do so. CICIG had been established through voluntary member state contributions, and there was no precedent for making such a body part of the formal UN system, Doggett said. Recalling that some member states opposed CICIG, Rosenthal was trying to garner support for the resolution quietly. CICIG's precedent-setting nature had the potential to put the UN in an uncomfortable position, Doggett observed. For example, in response to the UN's assertion that it could not investigate the assassination of former

Pakistani Prime Minister Benazir Bhutto, Pakistani representatives had cited CICIG as a precedent for doing so.

#### CICIG on Accomplishments, Challenges

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15. (C) During a separate conversation Oct. 24, CICIG Deputy Commissioner Amerigo Incalcaterra told visiting WHA/CEN Director Chris Webster and Pol/Econ Couns that CICIG is working under the assumption that its mandate will expire in eleven months. CICIG and MFA attorneys had independently concluded that the Guatemalan Congress would have to approve any extension of CICIG's mandate, Incalcaterra said. He thought securing such approval would be difficult.

16. (C) Webster asked Incalcaterra what CICIG had achieved so far. Incalcaterra said CICIG had identified corrupt and ineffective officials at the Attorney General's Office, to include then-Attorney General Florido, and had persuaded President Colom to remove them (ref b). CICIG is now directly supervising a hand-picked, vetted prosecutorial unit within the Attorney General's Office. Its assistance had been key in the dismantling of a child trafficking ring in Panajachel, Guatemala, saving some 150 children. CICIG had prepared prosecution of an organized crime ring within the National Civilian Police (PNC) known as "The Crazy Mariachi," but a judge had mishandled the case. CICIG was also participating directly as a co-plaintiff in the trial of Mexican drug traffickers for the March 25 narco-melee in Zacapa that killed eleven narcotraffickers (ref c). Incalcaterra predicted that CICIG would successfully prosecute at least one of two major organized criminal structures within the state prior to the expiration of its mandate. Doing so would demonstrate to both the Guatemalan public and rule of law authorities that impunity need not be the norm.

17. (C) Incalcaterra enumerated several obstacles that CICIG has so far encountered in developing successful prosecutions. Wire-tapping, controlled drugs deliveries, and other investigative tools are not yet available in Guatemala, forcing prosecutors to rely primarily on voluntary witness testimonies. That puts a premium on protecting witnesses, but Guatemala's witness protection program is utterly inadequate, Incalcaterra said. CICIG has arranged an initial

visit by U.S. Marshalls to look into the possibility of training the GOG in witness protection, but would prefer to place witnesses directly into cooperating countries' existing programs. Most of approximately 40 potential witnesses are themselves suspected criminals, and only a few countries -- Uruguay, Costa Rica, and Cuba -- appear to be seriously considering receiving them. The Netherlands is talking to CICIG about receiving witnesses, Incalcatera said, but its participation in the Schengen visa regime raises concerns about the ease with which witnesses might make their way to other parts of Europe. Asked how CICIG would overcome these difficulties were its mandate to be extended, Incalcatera said CICIG was preparing a package of legislative reforms that would facilitate its work as well as that of Guatemalan rule of law officials.

#### Some Cases Promising, Others Will Take Longer

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18. (S) A CICIG prosecutor told Pol/Econ Couns Oct. 28 that CICIG would take on the Portillo embezzlement case. The current Guatemalan prosecutor's case is weak, he said, but could be strengthened and likely carried through to a successful conclusion. A successful prosecution of Portillo would also entail developing a case against Portillo's Attorney General, Carlos de Leon Argueta, for money laundering. The prosecutor was also optimistic that the Zacapa narco-melee case would produce convictions of Zetas (the armed wing of the Mexican Gulf Cartel that ambushed Guatemalan trafficker Juan Leon and his bodyguards March 25). He said that some lines of inquiry indicate that Colom's former presidential security chief, Carlos Quintanilla, may have been complicit in the Zetas' incursion into Guatemala (ref d).

19. (S) Regarding the April murder of controversial Ministry of Government senior advisor Victor Rivera, the prosecutor opined that a successful investigation and prosecution would take years. Former Chief Homicide Prosecutor Alvaro Matus, whom President Colom removed from the Public Ministry in August at CICIG's behest, had taken evidence from the crime scene, and had similarly compromised investigations into

related cases, including the PARLACEN deputies and Boqueron police murders (ref e). In order to prosecute the Rivera murder, the CICIG prosecutor said, at this point it would be necessary to redo the investigations into the related cases, a tremendous challenge. The only alternative might be to wait until the perpetrators of Rivera's murder struck again. He said the modus operandi of Rivera's killers tied them to several other crimes. There was reason to believe that they were associated with police or perhaps military intelligence.

A new crime bearing the same hallmarks might make it easier to resume the investigation.

#### Comment

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10. (C) The Guatemalan Congress repeatedly demurred before finally approving CICIG in August 2007. Securing congressional approval for an extension will be an uphill climb. In any case, CICIG must make more progress in prosecuting organized criminal groups within the state before any serious discussion of an extension can take place. Only concrete achievements will dispel widespread skepticism about CICIG's efforts to date. The CICIG prosecutor's optimistic comments on the Portillo and Zacapa cases are encouraging. With technical assistance and some pressure from the Embassy, Congress passed an Organized Crime Law that provides for some of the law enforcement tools CICIG seeks. However, implementation of the law has been slow and political will lacking. There is no legislative panacea for the problems CICIG faces. The Embassy will continue to share information with CICIG when it can, but in order to earn support for extension of its mandate, CICIG will need to show that it can adapt and succeed in this challenging environment.

McFarland